

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MATTHEW BENJAMIN MAJOR,
Plaintiff,

v.

SANTA CLARA VALLEY MEDICAL
CENTER,
Defendant.

Case No. [16-cv-02824-PJH](#)

**ORDER OF DISMISSAL WITH LEAVE
TO AMEND**

Plaintiff, a detainee, has filed a pro se civil rights complaint under 42 U.S.C. § 1983. He has been granted leave to proceed in forma pauperis.

DISCUSSION

STANDARD OF REVIEW

Federal courts must engage in a preliminary screening of cases in which prisoners seek redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). In its review the court must identify any cognizable claims, and dismiss any claims which are frivolous, malicious, fail to state a claim upon which relief may be granted, or seek monetary relief from a defendant who is immune from such relief. *Id.* at 1915A(b)(1),(2). Pro se pleadings must be liberally construed. *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699 (9th Cir. 1990).

Federal Rule of Civil Procedure 8(a)(2) requires only "a short and plain statement of the claim showing that the pleader is entitled to relief." "Specific facts are not necessary; the statement need only "give the defendant fair notice of what the . . . claim is and the grounds upon which it rests."" *Erickson v. Pardus*, 551 U.S. 89, 93 (2007) (citations omitted). Although in order to state a claim a complaint "does not need detailed

1 factual allegations, . . . a plaintiff's obligation to provide the 'grounds' of his 'entitle[ment]
2 to relief' requires more than labels and conclusions, and a formulaic recitation of the
3 elements of a cause of action will not do. . . . Factual allegations must be enough to
4 raise a right to relief above the speculative level." *Bell Atlantic Corp. v. Twombly*, 550
5 U.S. 544, 555 (2007) (citations omitted). A complaint must proffer "enough facts to state
6 a claim to relief that is plausible on its face." *Id.* at 570. The United States Supreme
7 Court has recently explained the "plausible on its face" standard of *Twombly*: "While legal
8 conclusions can provide the framework of a complaint, they must be supported by factual
9 allegations. When there are well-pleaded factual allegations, a court should assume their
10 veracity and then determine whether they plausibly give rise to an entitlement to relief."
11 *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009).

12 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential
13 elements: (1) that a right secured by the Constitution or laws of the United States was
14 violated, and (2) that the alleged deprivation was committed by a person acting under the
15 color of state law. *West v. Atkins*, 487 U.S. 42, 48 (1988).

16 LEGAL CLAIMS

17 Plaintiff states that he is receiving inadequate medical care at Santa Clara County
18 Jail.

19 Deliberate indifference to serious medical needs violates the Eighth Amendment's
20 proscription against cruel and unusual punishment.¹ *Estelle v. Gamble*, 429 U.S. 97, 104
21 (1976); *McGuckin v. Smith*, 974 F.2d 1050, 1059 (9th Cir. 1992), *overruled on other*

23 ¹ It appears that plaintiff is a pretrial detainee. Even though pretrial detainees' claims
24 arise under the Due Process Clause, the Eighth Amendment serves as a benchmark for
25 evaluating those claims. See *Carnell v. Grimm*, 74 F.3d 977, 979 (9th Cir. 1996) (8th
26 Amendment guarantees provide minimum standard of care for pretrial detainees). The
27 Ninth Circuit has determined that the appropriate standard for evaluating constitutional
28 claims brought by pretrial detainees is the same one used to evaluate convicted
prisoners' claims under the Eighth Amendment. "The requirement of conduct that
amounts to 'deliberate indifference' provides an appropriate balance of the pretrial
detainees' right to not be punished with the deference given to prison officials to manage
the prisons." *Redman v. County of San Diego*, 942 F.2d 1435, 1443 (9th Cir. 1991) (en
banc) (citation omitted).

1 grounds, *WMX Technologies, Inc. v. Miller*, 104 F.3d 1133, 1136 (9th Cir. 1997) (en
2 banc). A determination of “deliberate indifference” involves an examination of two
3 elements: the seriousness of the prisoner's medical need and the nature of the
4 defendant's response to that need. *Id.* at 1059.

5 A “serious” medical need exists if the failure to treat a prisoner’s condition could
6 result in further significant injury or the “unnecessary and wanton infliction of pain.” *Id.*
7 The existence of an injury that a reasonable doctor or patient would find important and
8 worthy of comment or treatment; the presence of a medical condition that significantly
9 affects an individual's daily activities; or the existence of chronic and substantial pain are
10 examples of indications that a prisoner has a “serious” need for medical treatment. *Id.* at
11 1059-60.

12 A prison official is deliberately indifferent if he or she knows that a prisoner faces a
13 substantial risk of serious harm and disregards that risk by failing to take reasonable
14 steps to abate it. *Farmer v. Brennan*, 511 U.S. 825, 837 (1994). The prison official must
15 not only “be aware of facts from which the inference could be drawn that a substantial
16 risk of serious harm exists,” but he “must also draw the inference.” *Id.* If a prison official
17 should have been aware of the risk, but was not, then the official has not violated the
18 Eighth Amendment, no matter how severe the risk. *Gibson v. County of Washoe*, 290
19 F.3d 1175, 1188 (9th Cir. 2002). “A difference of opinion between a prisoner-patient and
20 prison medical authorities regarding treatment does not give rise to a § 1983 claim.”
21 *Franklin v. Oregon*, 662 F.2d 1337, 1344 (9th Cir. 1981).

22 Plaintiff states that doctors prescribed psychotropic medication for his mental
23 health needs but the medication resulted in plaintiff, who is male, growing breasts which
24 caused his nipples to hurt. Plaintiff contends he is disfigured and in psychological
25 distress. He seeks only money damages. However, plaintiff has not identified any
26 specific individual and has failed to describe how any defendant specifically violated his
27 constitutional rights. The complaint is dismissed with leave to amend for plaintiff to
28 identify the specific actions of each defendant and explain how the side effects of his

1 medication demonstrated deliberate indifferent to his serious medical needs.

2 **CONCLUSION**

3 1. The complaint is **DISMISSED** with leave to amend in accordance with the
4 standards set forth above. The amended complaint must be filed no later than **August**
5 **15, 2016**, and must include the caption and civil case number used in this order and the
6 words AMENDED COMPLAINT on the first page. Because an amended complaint
7 completely replaces the original complaint, plaintiff must include in it all the claims he
8 wishes to present. See *Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992). He may
9 not incorporate material from the original complaint by reference.

10 2. It is the plaintiff's responsibility to prosecute this case. Plaintiff must keep the
11 court informed of any change of address by filing a separate paper with the clerk headed
12 "Notice of Change of Address," and must comply with the court's orders in a timely
13 fashion. Failure to do so may result in the dismissal of this action for failure to prosecute
14 pursuant to Federal Rule of Civil Procedure 41(b).

15 **IT IS SO ORDERED.**

16 Dated: July 13, 2016

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19 PHYLLIS J. HAMILTON
United States District Judge

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CERTIFICATE OF SERVICE


I, the undersigned, hereby certify that I am an employee in the Office of the Clerk,
U.S. District Court, Northern District of California.

That on July 13, 2016, I SERVED a true and correct copy(ies) of the attached, by
placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter
listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an
inter-office delivery receptacle located in the Clerk's office.

Matthew Benjamin Major ID: 15031927
Santa Clara County Jail - North
885 North San Pedro Street
San Jose, CA 95110

Dated: July 13, 2016

Susan Y. Soong
Clerk, United States District Court

By: 
Nichole Peric, Deputy Clerk to the
Honorable PHYLLIS J. HAMILTON